

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

862C0860

## HOUSE ENGROSSED NO. **HB1301** - 2/19/99

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.**

Introduced by: Representatives Windhorst, Cutler, Smidt, Waltman, Wetz, and Young and  
Senators Staggers and Olson

1 FOR AN ACT ENTITLED, An Act to limit the liability resulting from the manufacture,  
2 distribution, and sale of firearms.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Legislature finds that the unlawful use of firearms, rather than their lawful  
5 manufacture, distribution, or sale, is the proximate cause of any injury arising from their unlawful  
6 use.

7 Section 2. No firearm manufacturer, distributor, or seller who lawfully manufactures,  
8 distributes, or sells a firearm is liable to any person or entity, or to the estate, successors, or  
9 survivors of either, for any injury suffered, including wrongful death and property damage,  
10 because of the use of such firearm by another.

11 Section 3. No association of persons who hold licenses under Section 923 of Chapter 44 of  
12 Title 18, United States Code, is liable to any person or entity, or to the estate, successors, or  
13 survivors of either, for any injury suffered, including wrongful death and property damage,  
14 because of the use of a firearm sold or manufactured by any licensee who is a member of such  
15 association.

16 Section 4. The provisions of this Act do not apply to actions for deceit, breach of contract,

1 or expressed or implied warranties, or for injuries resulting from failure of firearms to operate  
2 in a normal or usual manner due to defects or negligence in design or manufacture. The  
3 provisions of this Act do not apply to actions arising from the unlawful sale or transfer of  
4 firearms, or to instances where the transferor knew, or should have known, that the recipient  
5 would engage in the unlawful sale or transfer of the firearm, or would use, or purposely allow  
6 the use of, the firearm in an unlawful, negligent, or improper fashion.

7 For purposes of this section, the potential of a firearm to cause serious injury, damage, or  
8 death as a result of normal function does not constitute a defective condition of the product. A  
9 firearm may not be deemed defective on the basis of its potential to cause serious injury, damage,  
10 or death when discharged.

1    **BILL HISTORY**

2    2/1/99 First read in House and referred to committee assignment waived. H.J. 288

3    2/2/99 Referred to Judiciary. H.J. 319

4    2/8/99 Scheduled for Committee hearing on this date.

5    2/8/99 Judiciary Deferred to another day.

6    2/10/99 Scheduled for Committee hearing on this date.

7    2/10/99 Judiciary Deferred to another day.

8    2/12/99 Judiciary Hog Housed.

9    2/12/99 Scheduled for Committee hearing on this date.

10   2/12/99 Judiciary Do Pass Amended, Passed, AYES 9, NAYS 3. H.J. 502

11   2/17/99 House of Representatives Deferred to another day. H.J. 587

12   2/18/99 Motion to Amend, Passed. H.J. 619

13   2/18/99 House of Representatives Do Pass Amended, Passed, AYES 54, NAYS 14. H.J. 619